

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jeffrey Mulinelli (S)	Team: Squad #8	CCRB Case #: 201500442	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 01/22/2015 9:00 AM	Location of Incident: Vernon Boulevard and 41st Avenue	Precinct: 114	18 Mo. SOL 7/22/2016	EO SOL 7/22/2016	
Date/Time CV Reported Thu, 01/22/2015 9:19 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 01/22/2015 9:19 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Thomas Gagliardi	00996	930188	NARCBQN
2. DT3 Craig Rosenberg	06474	907213	NARCBQN
3. DT3 Peter Bohringer	04604	915326	NARCBQN

Officer(s)	Allegation	Investigator Recommendation
A.SGT Thomas Gagliardi	Abuse: Sgt. Thomas Gagliardi stopped § 87(2)(b)	
B.DT3 Craig Rosenberg	Abuse: Det. Craig Rosenberg stopped § 87(2)(b)	
C.DT3 Peter Bohringer	Abuse: Det. Peter Bohringer stopped § 87(2)(b)	
D.SGT Thomas Gagliardi	Abuse: Sgt. Thomas Gagliardi threatened to issue a summons to § 87(2)(b)	
E.SGT Thomas Gagliardi	Abuse: Sgt. Thomas Gagliardi searched § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

On January 22, 2015, at approximately 9:00 a.m., § 87(2)(b) was walking on Vernon Boulevard in the vicinity of 41st Avenue in Queens when he was stopped by three plainclothes officers, identified by the investigation as Sgt. Thomas Gagliardi, Det. Craig Rosenberg, and Det. Peter Bohringer, in an unmarked blue RMP (**Allegations A, B, and C**). None of the officers wore shields or identified themselves as police officers. After a brief discussion with § 87(2)(b) Sgt. Gagliardi told § 87(2)(b) that he would not issue a summons if § 87(2)(b) consented to a search (**Allegation D**). § 87(2)(b) did provide consent for Sgt. Gagliardi to search him. Sgt. Gagliardi did not ask § 87(2)(b) for ID, but he opened § 87(2)(b) jacket and put his hands into its outer chest pockets (**Allegation E**). Sgt. Gagliardi then searched § 87(2)(b) pants pockets as Det. Rosenberg and Det. Bohringer observed. After the search, Sgt. Gagliardi told Det. Rosenberg and Det. Bohringer that § 87(2)(b) did not have anything and was not the person they were looking for. The officers left the scene without any further discussion with § 87(2)(b).

Mediation, Civil, and Criminal Histories

§ 87(2)(b) opted to mediate this complaint, but Det. Bohringer was deemed ineligible to mediate by the Department Advocate's Office.

A Notice of Claim inquiry was filed with the Office of the New York City Comptroller on June 11, 2015. The search returned negative results [see 19 Board Review].

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB History

This is the first CCRB complaint filed by § 87(2)(b) [see 01 Board Review].

This is the 10th CCRB case filed against Sgt. Gagliardi during his 13 year tenure. In case 201410170, the allegations that Sgt. Gagliardi entered and damaged property at a location were substantiated against him. The case is currently assigned to the CCRB's Administrative Prosecution Unit (APU). § 87(2)(g).

This is the 18th CCRB case filed against Det. Rosenberg during his 21 year tenure. In cases 201006915 and 201105441, stop allegations were substantiated against Det. Rosenberg. In case 201006915, Det. Rosenberg's NYPD penalty was instructions. No disciplinary action was handed down in case 201105441. In case 201307224, a stop allegation and a search (of person) allegation were substantiated against Det. Rosenberg. The case is currently assigned to APU. Vehicle stop, vehicle search, search (of person), and frisk allegations were substantiated against Det. Rosenberg in case 201412536. § 87(4-b), § 87(2)(g)

§ 87(2)(g). As noted above, case 201307224 is assigned to APU. An NYPD disposition was not yet available for case 201412536 at the time of this report. § 87(4-b) § 87(2)(g)

This is the 5th CCRB case filed against Det. Bohringer during his 20 year tenure. In case 201410170, the allegation that Det. Bohringer entered a location was substantiated against him. In case 201412356, a vehicle stop allegation was substantiated against Det. Bohringer, § 87(4-b) § 87(2)(g)

Findings and Recommendations

Identification of Subject Officers

In his CCRB testimony, § 87(2)(b) described three plainclothes officers who engaged in the stop as follows: The first officer was a slightly overweight white male with short, black hair in his 30s or 40s, standing 5'5" to 5'8" tall. The second officer was a chubby white male who weighed over 200 pounds, was in his 30s or 40s, and had short, greying hair and a clean shaven face. The third officer was a slightly overweight male who was the same height as the first and second officers.

§ 87(2)(b) also stated that the officers all exited from the same blue unmarked RMP [see 03 Board Review].

The Tactical Plan for Queens Narcotics on January 22, 2015, listed Sgt. Gagliardi, Det. Rosenberg, and Det. Bohringer as being assigned to work together in an unmarked blue Nissan, RMP number § 87(2)(b) [see 16 Board Review]. Sgt. Gagliardi's MOS photo revealed that he is a § 87(2)(b) year-old white male with brown hair that is greying. He stands 5'7" tall and weighs 175 pounds [see 09 Board Review]. Det. Rosenberg's MOS photo revealed that he is a § 87(2)(b) -old white male, standing 5'8" tall, and weighing 225 pounds [see 12 Board Review]. Det. Bohringer is a § 87(2)(b) -old white male, standing 5'7" tall, and weighing 215 pounds. He has a chubby and clean shaven face in his MOS photo [see 14 Board Review]. Det. Rosenberg and Det. Bohringer both have blond hair. The officers match § 87(2)(b) description of three white male officers who were close in age and were all about the same height. They were also all assigned to the same unmarked blue RMP that § 87(2)(b) described. Additionally, § 87(2)(b) identified Det. Rosenberg and Det. Bohringer in a photo array. § 87(2)(b) attributed the stop to all three officers, and the search to the officer with short black hair. As the only officer with dark hair and the lightest of the group, Sgt. Gagliardi most closely matches § 87(2)(b) description of the officer who threatened to issue him a summons and then searched him. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Allegation A) Abuse of Authority: Sgt. Thomas Gagliardi stopped § 87(2)(b)

Allegation B) Abuse of Authority: Det. Craig Rosenberg stopped § 87(2)(b)

Allegation C) Abuse of Authority: Det. Peter Bohringer stopped § 87(2)(b)

Allegation D) Abuse of Authority: Sgt. Thomas Gagliardi threatened to issue a summons to § 87(2)(b)

§ 87(2)(b)

Allegation E) Abuse of Authority: Sgt. Thomas Gagliardi searched § 87(2)(b)

§ 87(2)(b) testified that he was walking in the vicinity of Queensbridge Park, which is in the area of the Queensbridge Houses NYCHA complex. § 87(2)(b) had picked up a free newspaper and was speaking with a friend before crossing the street and heading toward Vernon Boulevard and 41st Avenue. § 87(2)(b) had not exchanged anything with his friend during their conversation.

A few minutes after § 87(2)(b) friend left, § 87(2)(b) was walking on Vernon Boulevard on the same side as the NYCHA buildings when an unmarked blue RMP pulled up next to a nearby fire hydrant. Sgt. Gagliardi, Det. Rosenberg, and Det. Bohringer exited the RMP and approached § 87(2)(b). All of the officers were in plainclothes and their shields were not visible. Although the

officers did not identify themselves as police, § 87(2)(b) assumed that they were because he heard chirping that sounded like a police radio.

All three officers stood in front of § 87(2)(b) and his back was toward the buildings. Sgt. Gagliardi asked § 87(2)(b) if he had just exited one of the buildings. § 87(2)(b) had not been inside of any building recently aside from his own. He informed the officers that he was talking to his friend and was then on his way to the park. Sgt. Gagliardi said, “If you let me search you, I won’t give you a summons.” Sgt. Gagliardi did not show any ID, and he did not ask § 87(2)(b) for his ID. § 87(2)(b) responded, “I’m not a drug dealer. I’m not selling drugs.” PO1 did not verbally respond or ask for consent to search § 87(2)(b). § 87(2)(b) never consented to a search, but Sgt. Gagliardi opened § 87(2)(b) jacket and then put his hands into the outer pockets near § 87(2)(b) chest. He removed a small mirror as well as a small pad and a pen. Sgt. Gagliardi replaced the items before searching § 87(2)(b) lower coat pockets and pants pockets. Det. Rosenberg and Det. Bohringer stood about an arm’s length away from § 87(2)(b) and observed as Sgt. Gagliardi searched him.

After searching § 87(2)(b) Sgt. Gagliardi said, “He has nothing. He’s not the one. Stay out of the buildings.” Sgt. Gagliardi did not elaborate on what he meant by his comments, and § 87(2)(b) did not hear any voices over the police radio which would have indicated a description or any further information regarding the officers’ motives for stopping him. The officers left the scene in their RMP after Sgt. Gagliardi commented that § 87(2)(b) was not “the one.” § 87(2)(b) was not issued a summons or arrested [see 03 Board Review].

§ 87(2)(b) identified Det. Rosenberg and Det. Bohringer during a photo array conducted on June 24, 2015. He stated that both of their faces were chubby and looked like two of the three officers at the scene [see 05 Board Review].

Sgt. Gagliardi’s memo book noted that he was in the vicinity of the Astoria Houses NYCHA Complex at 8:45 a.m. At 9:50 a.m., his memo book notes an arrest for Det. Rosenberg which occurred at § 87(2)(b), a location within the Astoria Houses that Google Maps revealed was 1.6 miles from the incident location provided by § 87(2)(b) [see 02 Board Review]. The next entry revealed that he was in the vicinity of the Queensbridge houses at 10:00 a.m. [see 06 Board Review].

In his CCRB testimony, Sgt. Gagliardi denied having an independent recollection of this incident. He did not remember being assigned to an unmarked blue Nissan on the date of the incident. However, he believed that the chase car, which was assigned to Det. Bohringer and Det. Jason Hernandez, was an unmarked blue Nissan, and they remained in the same area as Sgt. Gagliardi and Det. Rosenberg, who were in the leader car. Sgt. Gagliardi did not see Det. Bohringer or Det. Hernandez stop anyone on the date of the incident.

Sgt. Gagliardi was shown the arrest report for the arrest noted in his memo book. He remembered that he and Det. Rosenberg chased the arrestee through the Astoria Houses. The chase lasted approximately 10 minutes, and the arrestee threw drugs as he ran. Sgt. Gagliardi did not remember any details of what happened leading up to the arrest. The arrest report narrative mentioned that the arrestee was observed selling a quantity of marijuana to another individual who was not apprehended. Sgt. Gagliardi did not remember if he had a description of who the other person was. He did not remember if the other person was male or female, but he believed that officers in the prisoner van went after him or her.

Sgt. Gagliardi was presented with a photo of § 87(2)(b) which was taken on the date of § 87(2)(b) CCRB interview, but the photo did not refresh his memory. Sgt. Gagliardi claimed that he had interacted with hundreds of people since the incident date and did not specifically remember § 87(2)(b) Sgt. Gagliardi did not remember interacting with any middle-aged Hispanic males or questioning any individual about drugs on the morning of the incident. Sgt. Gagliardi acknowledged that, as per his memo book, he was in the vicinity of the Queensbridge Houses at approximately 10:00 a.m. after he shifted locations because he believed that the community in the area of the Astoria Houses had been alerted to the officers' presence. Sgt. Gagliardi did not have any entries in his memo book about interacting with anyone in the vicinity of the Queensbridge Houses, and he did not have an independent recollection of having interacted with anyone there. He did not remember asking anyone if he had just come out of one of the nearby buildings. Sgt. Gagliardi did not remember telling anyone, "If you let me search you, I won't give you a summons." Sgt. Gagliardi did not remember performing any searches on the date of the incident aside from the aforementioned arrestee. He did not remember stopping an individual and then commenting that the individual had nothing on him and was not the one [see 07 Board Review].

Sgt. Gagliardi was shown the tactical plan for his command and tour on the date of the incident, which showed that Sgt. Gagliardi was assigned to an unmarked blue Nissan with Det. Rosenberg and Det. Bohringer [see 16 Board Review]. Sgt. Gagliardi presented a separate document, a CHOCCNET Data Entry Cover Sheet, which he testified was completed at the end of each day. Sgt. Gagliardi pointed out that the sheet featured Sgt. Gagliardi and Det. Rosenberg as partnered, and Det. Hernandez and Det. Bohringer were assigned to a chase car. Sgt. Gagliardi was listed as the "leader" and Det. Rosenberg as the arresting officer. However, specific car assignments with information such as an RMP number, make, or model were not listed [see 08 Board Review].

Det. Rosenberg's memo book notes that he was in the vicinity of the 114th Precinct with Sgt. Gagliardi at 6:30 a.m. The memo book also noted an arrest at § 87(2)(b) at 9:50 a.m. However, the next entry in his memo book following the arrest is an unrelated entry at 12:00 p.m. [see 10 Board Review].

Det. Rosenberg also denied having any independent recollection of this incident. He did not remember any details of the arrest noted in his memo book. Specifically, he did not know if he made the observations cited in the arrest report narrative or if the other individual mentioned in the report, who was not apprehended, was chased or arrested at any point. Det. Rosenberg did not remember making any stops in regards to the aforementioned arrest. He denied having conducted any stops prior to the arrest and did not remember making any stops at all that morning. Det. Rosenberg believed that he would have generated a UF250 or other relevant paperwork if he had conducted a stop. Det. Rosenberg did not recall conducting any type of investigation, such as speaking with anyone, in the minutes or hours leading up to the arrest.

Det. Rosenberg was shown a photo of § 87(2)(b) but he did not remember having any interaction with him. Det. Rosenberg did not remember having an interaction with a middle-aged Hispanic male on the morning of the incident. Like Sgt. Gagliardi, he did not remember speaking with anyone who had a slow and deliberate speech pattern on the date of the incident. Det. Rosenberg did not remember speaking with anyone who stated he was not a drug dealer and had a brother who worked at Goodwill. Det. Rosenberg did not remember questioning anyone about drugs that morning.

Det. Rosenberg was presented with the tactical plan for January 22, 2105, which featured Det. Rosenberg assigned to an unmarked blue Nissan (RMP #§ 87(2)(b) along with Det. Bohringer and Sgt. Gagliardi. Det. Rosenberg acknowledged that he had a different RMP number in his memo book, and he stated that he may have written the wrong number down. Det. Rosenberg did not remember if he switched cars that day. Det. Rosenberg stated that if the tactical plan revealed that he was assigned to the unmarked blue Nissan, then that was the car he was in. When asked if he was in the same car as Det. Bohringer, both Det. Rosenberg and his DEA representative stated that, according to the tactical plan, Det. Bohringer was in the same car as Det. Rosenberg. Det. Rosenberg was shown a copy of the CHOCCNET Data Entry Activity Cover Sheet, which was submitted by Sgt. Gagliardi during his earlier interview, but Det. Rosenberg was unfamiliar with the document. He said that he had not seen it before and he believed it was prepared by supervisors, though he did not know at what time of day it was usually submitted. Det. Rosenberg felt that the car on the tactical plan was most likely the car he was assigned to.

Det. Rosenberg did not remember interacting with anyone in the vicinity of the Queensbridge Houses on the date of the incident. Det. Rosenebrg did not know if he asked anyone if he had just come out of a building in the Queensbridge houses on the morning of the incident. He did not hear Sgt. Gagliardi or Det. Bohringer ask that question. Det. Rosenberg did not tell anyone, “If you let me search you, I won’t give you a summons.” He did not hear Sgt. Gagliardi or Det. Bohringer make that statement. Det. Rosenberg did not conduct any searches aside from the arrestee mentioned above. He did not see Det. Bohringer or Sgt. Gagliardi search any individuals that morning. Det. Rosenberg denied having any conversation with his partners regarding an individual having nothing on him or not being the one. Neither he nor his partners told anyone to stay out of the Queensbridge houses on the date of the incident [see 11 Board Review].

Det. Bohringer was unavailable for a statement, and his memo book was not obtained because he has been on terminal leave pending retirement since June 8, 2015 [see 13 Board Review]. According to his command, Det. Bohringer is set to retire on July 31, 2015.

Requests for MISD check results and the UF250 Index produced negative results [see 17 Board Review].

§ 87(2)(g)
[REDACTED]

[REDACTED]

§ 87(2)(g) [Redacted text block]

§ 87(2)(g) [Redacted text block]

§ 87(2)(g) [Redacted text block]

§ 87(2)(g), § 87(4-b) [Redacted text block]

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Investigator: _____
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Supervisor: _____
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Reviewer: _____
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Reviewer: _____
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